

10/7/96 12:46 PM

Trent W Orr

415-648-2004

P. 001

CITY OF SANTA ROSAP.O. Box 1678
Santa Rosa, CA 95402

OCT 07 1996

Trent W. Orr
Attorney at Law
96 Manchester Street
San Francisco, CA 94110**DEPARTMENT OF
COMMUNITY DEVELOPMENT**tel.: 415-206-0898
fax: 415-648-2004
e-mail: trentworr@aol.com

October 7, 1996

Hand-DeliveredMarie Meredith
City of Santa Rosa
Community Development Department
P.O. Box 1678
Santa Rosa, CA 95402-1678Re: Comments on the Santa Rosa Subregional Long-Term Wastewater Project Draft
Environmental Impact Report/Environmental Impact Statement

Dear Ms. Meredith:

I am writing on behalf of the Friends of the Esteros and Kathy and Joe Tresch to offer comments on legal problems with the above-entitled DEIR/S insofar as that document is purported to provide an adequate basis under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) for the selection of the West County disposal alternative as the City of Santa Rosa's long-term wastewater disposal project. For reasons summarized in this letter and more fully documented in other comments submitted by and on behalf of the Friends of the Esteros and the Tresches, the DEIR/S does not provide a legally adequate basis for the approval of the West County alternative. Quite the contrary, the DEIR/S itself acknowledges that the West County option could not be implemented without continual violations of the regulations of the Gulf of the Farallones National Marine Sanctuary, violations that would constitute significant impacts to two important esteros that are part of the Sanctuary. The DEIR/S makes clear that these unlawful impacts would not be mitigated.

001

The DEIR/S fails entirely to acknowledge that the area surrounding both the Estero Americano and the Estero de San Antonio, into which wastewater from the West County alternative would drain, are actively under consideration by the National Park Service for inclusion within the boundaries of Point Reyes National Seashore. Legislation to accomplish this was introduced in the recently adjourned Congress and will doubtless be reintroduced in the next Congress. As a member of the Advisory Commission to the National Seashore, the author of these comments can attest that the Park Service is pursuing this option of boundary expansion for the purposes of protecting the land resources along the east shore of Tomales Bay northward to and including the Esteros from environmentally damaging development and of protecting the health and biological productivity of the water resources of the esteros, Tomales Bay, and adjacent waters, with which the continued well-being of Point Reyes's varied and invaluable ecosystems are inextricably tied. A search of all of the relevant sections of the CD-ROM of the DEIR/S for references to the proposed Point Reyes boundary expansion and the West County alternative's impacts on that expansion proposal -- and the park itself, if so expanded -- failed to turn up any mention whatsoever of the potential for the drainage of the West County alternative to contain national park lands, let alone an analysis of the West County alternative's potential adverse impacts on those lands. A copy of the Boundary Study for the proposed Point Reyes expansion has been

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submitted for your record by another commentor on the DEIR/S. The West County alternative cannot lawfully be approved under CEQA and NEPA until such time as a supplemental DEIR/S addresses the proposed park expansion and the West County alternative's potential impacts on that expansion.

002 (cont.)

Unlike the proposed park expansion, the Gulf of the Farallones National Marine Sanctuary is currently established. It encompasses both esteros that would be principal receiving waters, directly and indirectly, of wastewater discharged both intentionally and incidentally from the reservoir central to the West County alternative. Nonetheless, the DEIR/S fails to take seriously the insurmountable obstacles to the implementation of the West County alternative (or any potential variation that contemplates major storage and discharge in the West County) that are presented by the Marine Sanctuary's highly restrictive regulations relating to any discharge into sanctuary waters. The sanctuary contains some of the most biologically productive waters along the West Coast and, in recognition of this fact, is included in the Central Coast International Biosphere Reserve. For this reason, the Department of Commerce has enacted very stringent regulations aimed at protecting and improving those waters. In the face of this, it is preposterous for the City of Santa Rosa seriously to propose discharging treated wastewater into the two important estuaries that are a part of the Sanctuary.

003

The National Oceanic and Atmospheric Administration has determined that any change in the condition of the waters of either estero would be a significant environmental impact. The DEIR/S admits in Section 4.6 that a West County storage reservoir and West County irrigation in the Americano and Stemple Creek watersheds would change water quality in the esteros. It notes that the West County alternative would have significant impacts on the two watersheds and esteros with regard to levels of ammonia, dissolved oxygen, copper, other metals, salinity, and algae. The DEIR/S acknowledges in all these cases that no feasible mitigation has been identified for any of these impacts. That being the case, the West County alternative must be rejected as infeasible. The City does not have the legal authority to override the regulations of the federal government concerning the protection of a resource of national and international significance. To pursue the West County alternative in the face of the illegal discharges to the Marine Sanctuary that it would, by the DEIR/S's express admission, entail would simply invite successful legal action against the City on behalf of the Sanctuary and set the City's efforts to achieve a proper long-term solution to its wastewater problem back many more years.

004

Finally, the DEIR/S's conclusion, based on a "preliminary study," that there are 3,450 acres in the West County that are owned by ranchers who would willingly accept wastewater for irrigation is highly doubtful. The City is well aware of the strong opposition from a large portion of the affected farming and ranching communities to any West County irrigation or condemnation of farmland for the construction of reservoirs.

005

For all of these reasons, and many others detailed at great length by numerous other commentors opposed to the West County alternative, we submit that the DEIR/S does not provide a legally sufficient basis under either CEQA or NEPA to approve the West County alternative for Santa Rosa's wastewater disposal. Instead, the DEIR/S itself makes clear that the West County alternative is infeasible, and the final EIR/S should forthrightly acknowledge that this is the case.

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Thank you for this opportunity to comment. Do not hesitate to contact me if you have any questions concerning these views. 006 (cont.)

Very truly yours,

Trent W. Orr
Attorney for Friends of the Esteros and
Joe and Kathy Tresch

Dear Ms. Meredith -

A copy of these comments was hand-delivered before the close of the comment period. I am enclosing the original, with several typos corrected, for your convenience.

Trent Orr

CITY OF SANTA ROSA

P.O. Box 1678
Santa Rosa, CA 95402

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Mariane Meredith
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Santa Rosa, CA 95402-1678

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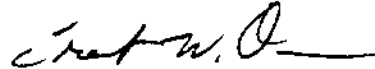
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Thank you for this opportunity to comment. Do not hesitate to contact me if you have any questions concerning these views.

Very truly yours,

A handwritten signature in black ink, appearing to read "Trent W. Orr", followed by a horizontal line.

Trent W. Orr
Attorney for Friends of the Esteros and
Joe and Kathy Tresch